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C O N F I D E N T I A L SECTION 01 OF 03 BOGOTA 009089

SIPDIS

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TAGS: [KJUS](#) [PTER](#) [PREL](#) [PGOV](#) [CO](#) [ELN](#)

SUBJECT: PEACE COMMISSIONER OPPOSES DON BERNA'S EXTRADITION
AND IS SURPRISED BY SUPPORT FOR ELN TALKS

Classified By: Ambassador William B. Wood.

Reasons: 1.4 (b) and (d)

SUMMARY

1. (C) Peace Commissioner Luis Carlos Restrepo on September 22 told the Ambassador that the GOC is inclined not to extradite Diego Murillo AKA "Don Berna" at the moment because it would endanger future demobilizations and Don Berna remains an important player in ensuring these demobilizations happen. The Ambassador responded that not extraditing Don Berna would feed domestic and international critics of the peace process. Restrepo agreed to delay any public announcement on Don Berna until the Ambassador has had the opportunity to consult with Washington and speak again to President Uribe. Restrepo also updated the Ambassador on the public and private support the GOC has received for its preliminary peace talks with the National Liberation Army of Colombia (ELN). He contrasted this with the unenthusiastic response to the GOC's decision to allow 38 jailed Revolutionary Armed Forces of Colombia (FARC) members to benefit from Justice and Peace (J&P) law sentence reductions. End summary.

GOC LEANING IN FAVOR OF KEEPING DON BERNA IN COLOMBIA

2. (C) Restrepo expressed ambivalence about Don Berna's extradition. On the one hand, he is aware of the political implications, in particular with the USG and NGOs, of refusing to extradite him given ongoing criticism the GOC's negotiations with the AUC. Nevertheless, his primary goal is to demobilize the remaining paramilitary structures during the next three months and Don Berna remains an important player in ensuring this happens.

3. (C) Restrepo explained that if the GOC were to announce Don Berna's extradition now it could generate "panic," freeze future demobilizations, and lead those leaders imprisoned in Santa Fe de Ralito to try to escape. There is already fear and resistance after meetings last week with AUC leaders when he made clear that demobilized paramilitary leaders would serve time in prison. He was told that his announcement had angered many AUC members, especially those in the middle ranks, and that his statement threatened the current peace talks with the remaining paramilitary blocks.

4. (C) Restrepo insisted that his hesitation to extradite Don Berna did not extend to the other 10 to 12 key AUC leaders. If Don Berna is extradited, however, Restrepo foresees a significant change in the atmosphere, which could affect ongoing peace talks and spark paramilitary violence. He emphasized that the GOC would need significant USG security assistance if this occurred. He drew on his experience as a psychologist to express particular concern for the state of mind of the paramilitaries, whom he described as "bandits willing and able to do harm." His preference was not to scare them, but instead to encourage them to continue to "enter the corral" and participate in the process. Meanwhile, he said that AUC leader Salvatore Mancuso wanted to speak to the USG because he is willing to consider serving some time in the United States and could convince others to do the same. Other AUC leaders have suggested that after being convicted in Colombia, they would like to serve their time in another country. The rationale for this is that they have no opportunities here and their lives would be in danger from fellow AUC and FARC members.

AMBASSADOR EMPHASIZED USG POSITION ON EXTRADITION

5. (C) The Ambassador said the USG wants Don Berna's extradition for judicial and political reasons. Judicially, the USG has been able to support the Justice and Peace (J&P) law because the GOC promised it would not negotiate extradition. The J&P law denies benefits for illegal activities conducted for personal gain before membership. The law permits the serving of sentences abroad. Therefore, there should be no obstacle for Don Berna or others to be extradited to the United States. Don Berna personally

benefited from illicit activities before and during his membership in the AUC. Don Berna has also been accused of complicity in the killing of a government official while negotiating, thus violating the ceasefire, and his subsequent denial of responsibility for this crime makes him eligible for trial in the regular criminal justice system.

16. (C) From the political perspective, the Ambassador said he understood Uribe's concern about the political cost of extradition while trying to demobilize paramilitaries. Nevertheless, showing a firm hand with respect to the rule of law would help to further legitimize the process. The Ambassador said that in his meetings on September 23 with Governor Gaviria of Antioquia, Mayor of Medellin Fajardo and General Carillo, both Gaviria and Carillo favored Don Berna's extradition, and the Mayor did not oppose the idea. (Berna had an extensive network in Medellin.)

17. (C) The Ambassador stressed the intense focus in the U.S. and elsewhere on Colombia's demobilization and reinsertion efforts. An announcement like that for Salvatore Mancuso, that the GOC was suspending Don Berna's extradition "while he assisted the peace process" would undercut support for the demobilization process and the J&P law. It would also undermine Uribe's credibility shortly after his conversations with members of the U.S. Congress. The Ambassador asked that there be no public statement until he again discussed it with President Uribe.

POTENTIAL TALKS WITH ELN RECEIVE SIGNIFICANT SUPPORT...

18. (C) Restrepo said that in the past days he has received more local and international support on potential peace talks with the ELN than he has had during his three years trying to promote peace with the United Self-Defense Forces of Colombia (AUC). Politicians, former Presidents, the Catholic Church, and the Swedish and Norwegian governments have expressed their willingness to help in the process. With the AUC, he struggled to "fill a van of supporters," while with the ELN he has already had to "hire three large buses and turn people back." He was appreciative of the reiteration of USG support for the process and emphasized his hope that the ELN would take advantage of it.

19. (C) Restrepo speculated that the talks might succeed because of tensions between the ELN and the FARC. In recent weeks, the FARC has intensified its threats against the ELN leadership and warned them to withdraw from negotiations or expect a war. Restrepo said the FARC's tactic of discouraging the ELN from negotiating may benefit the government. Specifically, he thought the threats could backfire by convincing the ELN to negotiate now before fighting with the FARC weakens them further.

...BUT SUPPORT FOR FARC'S 38 J&P PETITION IS WEAK

10. (C) Restrepo understood the political cost of allowing the petition of the 38 jailed FARC members to participate under the Justice and Peace (J&P) law, but underscored the overall value of this and similar future requests. He explained that accepting these requests weakens FARC morale and helps the GOC collect intelligence against the guerrillas. He hoped to put the FARC members interested in participating in the J&P law through a rigorous interrogation process, which could confirm their identification and extract relevant intelligence. He added that he has a list of an additional 150 FARC members waiting for a response from the GOC regarding their petitions to participate under the J&P law.

COMMENT

11. (C) We believe that we can persuade the Uribe Administration not to suspend Don Berna's extradition on an open-ended basis like they did for Mancuso. But we doubt we can get a decision for immediate extradition by the September 29 deadline.

WOOD